

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 92-518-C - ORDER NO. 93-284

MARCH 25, 1993

IN RE: Application of Inmate Phone)
Systems Corporation for Authority) ORDER GRANTING
to Operate as a Reseller of) PETITION FOR
Telecommunications Services within) RECONSIDERATION
the State of South Carolina.)

This matter is before the Public Service Commission of South Carolina (the Commission) on Inmate Phone Systems Corporation's (IPSC's or the Company's) Petition for Rehearing or Reconsideration of Order No. 93-148 (February 24, 1993). Order No. 93-148 granted IPSC a Certificate of Public Convenience and Necessity to operate as a reseller of telecommunications services, including operator services, and authorized it to place telephones in confinement facilities in the State of South Carolina. The Order also granted the Consumer Advocate's motion to require IPSC to refund all revenues collected by it for completion of intrastate telephone calls prior to receipt of its certification. IPSC asserts that this Commission has not required other resellers to issue refunds under similar situations and, consequently, the Commission should reconsider that portion of Order No. 93-148 which required it to make refunds.

The evidence from the proceeding in this matter indicates that in May 1992 IPSC began providing reseller services to the McCormick Correctional Institution. At that time, IPSC held Commission authority to install and operate Customer Owned Coin Operated Telephones (COCOTS) but it did not have authority to provide reseller services. According to IPSC witness Stephen A. Edwards, when the Company realized that its COCOT certificate did not authorize it to provide reseller services to McCormick Correctional Institution, IPSC filed an application for a Certificate of Public Convenience and Necessity to provide reseller services.

As noted by IPSC, it is generally the Commission's established practice to require telephone utilities to make refunds of all revenues received for the provision of intrastate telecommunication services prior to acquiring authority from the Commission. However, there have been instances where the Commission has not ordered refunds. For instance, in Order No. 91-325 (April 24, 1991), Docket No. 89-550-C, the Commission denied Southern Bell's request to order Telink Telephone Systems, Inc. to cease and desist from providing services or to require penalties or to issue refunds. Although Telink had obtained a COCOT certificate, it had begun providing services from confinement facilities prior to receiving reseller authorization from the Commission.

Further, in Order No. 92-547 (July 13, 1991), the Commission denied the Consumer Advocate's motion to order Ascom Autelca Communications to refund revenues generated from the provision of operator services. At the time it began providing alternate

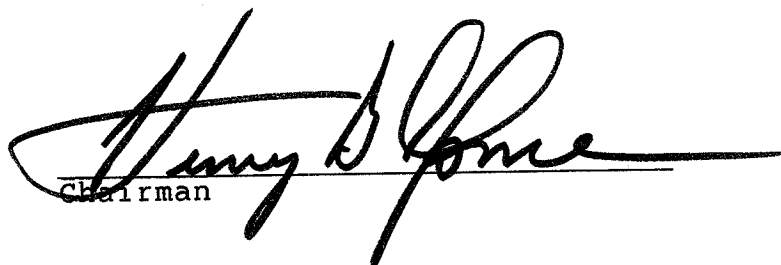
operator services, the utility did not have an approved tariff for operator services on file with the Commission. The Commission stated that, while it did not condone the charging for new services before Commission approval was granted, it would not require refunds because the utility had been previously certified as a reseller prior to its provision of operator services.

The Commission concludes that it will not require IPSC to refund revenues received as a result of the provision of intrastate reseller services prior to its certification. The Commission recognizes that IPSC had COCOT authority prior to its providing reseller services to the McCormick Correctional Institution. Further, the Commission notes that IPSC applied for reseller certification when it discovered that authority was needed for it to operate as a reseller from the confinement facility. Finally, the Commission recognizes that IPSC did not seek to market its reseller services once it discovered that its COCOT certificate did not provide it with such authority. The Commission concludes that on the basis of the factual circumstances and as a matter of discretion, it will not require IPSC to issue refunds. Therefore,

DOCKET NO. 92-518-C - ORDER NO. 93-284
MARCH 25, 1993
PAGE 4

the Commission grants IPSC's Petition for Reconsideration and rules that the Company not be required to issue refunds.

IT IS SO ORDERED.


Chairman

ATTEST:


Executive Director

(SEAL)